

Thomas H. Bienert, Jr. (CA 135311, admitted *pro hac vice*)
Whitney Z. Bernstein (CA 304917, admitted *pro hac vice*)
BIENERT | KATZMAN PC
903 Calle Amanecer, Suite 350
San Clemente, California 92673
Telephone: (949) 369-3700
Facsimile: (949) 369-3701
tbienert@bienertkatzman.com
wbernstein@bienertkatzman.com
Attorneys for James Larkin

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

United States of America,

Plaintiff,

vs.

Michael Lacey, *et al.*,

Defendants.

CASE NO. 2:18-cr-00422-SMB

**JAMES LARKIN'S JOINDER TO JOHN
BRUNST'S MOTION TO COMPEL
GOVERNMENT COMPLIANCE WITH
COURT'S ORDER FOR SPECIFIC
IDENTIFICATION OF DOCUMENTS
SUBJECT TO PROTECTIVE ORDER
DOC. 740**

James Larkin, by and through his undersigned counsel, hereby joins in John Brunst's Motion to Compel Government Compliance with Court's Order for Specific Identification of Documents Subject to Protective Order (Doc. No. 740). Mr. Larkin adopts the legal positions and bases set forth in the Motion as if fully set forth herein.

Further, in addition to the nearly 27,000 pages of discovery produced to Defendants on September 13, 2019, many months after the December 2018 discovery cutoff, (*see* Exhibit A). undersigned counsel defense received yet another purported Rule 16 production on September 24, 2019. This production contains nearly **13,000 additional pages** and two DVDs with unspecified lengths of audio and video recordings. The accompanying "index" identifies several categories of new documents including: "Arizona GJ Court-related

1 Documents,” “Reports of Interviews and Supporting Documents” (listed on the
2 government’s cover letter three times with differing Bates ranges), “CA DOJ Investigation
3 Documents,” “Backpage Case Search Warrants,” “Backpage State Court Case-related
4 Documents.” *See* Exhibit B.

5 As laid out in Doc. No. 740, defense counsel does not know the government’s position
6 on which documents it believes fall under the protective order in the nearly eleven million
7 pages produced between May 2018 and April 2019. Moreover, defense counsel is also unclear
8 on the government’s position as which, if any, of the recently disclosed approximately 40,000
9 pages of discovery need to be protected.

10 For all of the foregoing reasons, Mr. Larkin joins in John Brunst’s Motion to Compel
11 Government Compliance with Court’s Order for Specific Identification of Documents
12 Subject to Protective Order (Doc. No. 740) and asks this Court to order the government to
13 specifically identify documents by title and Bates number that it contends are subject to the
14 protective order.

15
16 Respectfully submitted,

17
18 DATED: September 26, 2019

BIENERT | KATZMAN PC

19
20 /s/ Whitney Z. Bernstein
21 Whitney Z. Bernstein
22 Thomas H. Bienert, Jr.
23 *Attorneys for James Larkin*
24
25
26
27
28

CERTIFICATE OF SERVICE

I certify that on this 26th day of September, 2019, I electronically transmitted a PDF version of this document to the Clerk of the Court, using the CM/ECF System, for filing and for transmittal of a Notice of Electronic Filing to the following CM/ECF registrants listed below.

/s/ Toni Thomas

Toni Thomas

Anne Michelle Chapman, anne@mscclaw.com
 Erin E. McCampbell, emccampbell@lglaw.com
 Anthony R. Bisconti, tbisconti@bienertkatzman.com
 Ariel A. Neuman, aan@birdmarella.com
 Bruce S. Feder, bf@federlawpa.com
 James C. Grant, jimgrant@dwt.com
 Lee David Stein, lee@mscclaw.com
 Paul J. Cambria, pcambria@lglaw.com
 Robert Corn-Revere, bobcornever@dwt.com
 Ronald Gary London, ronnielondon@dwt.com
 Janey Henze Cook, janey@henzecoockmurphy.com
 John Lewis Littrell, jlittrell@bmkattorneys.com
 Seetha Ramachandran, Seetha.Ramachandran@srz.com
 Thomas H. Bienert, Jr. tbienert@bienertkatzman.com
 Whitney Z. Bernstein, wbernstein@bienertkatzman.com
 Gary S. Lincenberg, glincenberg@birdmarella.com
 Gopi K. Panchapakesan, gpanchapakesan@birdmarella.com
 Michael D. Kimerer, mdk@kimerer.com
 Rhonda Elaine Neff, rneff@kimerer.com
 David S. Eisenberg, david@deisenbergplc.com
 Joy Malby Bertrand, joyous@mailbag.com
 John Jacob Kucera, john.kucera@usdoj.gov
 Kevin M. Rapp, Kevin.Rapp@usdoj.com
 Margaret Wu Perlmeter, Margaret.perlmeter@usdoj.gov
 Reginald E. Jones, reginald.jones4@usdoj.gov
 Peter Shawn Kozinets, Peter.Kozinets@usdoj.gov
 Andrew C. Stone, andrew.stone@usdoj.gov

Exhibit “A”



U.S. Department of Justice

United States Attorney
District of Arizona

Two Renaissance Square
40 N. Central Ave., Suite 1800
Phoenix, AZ 85004-4408

Main: (602) 514-7500
Main Fax: (602) 514-7693

September 12, 2019

Paul J. Cambria Jr.
Attorney at Law
Lipsitz Green Scime Cambria,
LLC
42 Delaware Ave, Suite 120
Buffalo, NY 14202
(attorney for Michael Lacey)

Jim Grant
Davis Wright Tremaine, LLP
920 Fifth Avenue,
Suite 3300
Seattle, WA 98104
(attorney for Lacey and Larkin)

Robert Corn-Revere
Davis Wright Tremaine, LLP
1919 Pennsylvania Avenue N.W.,
Suite 800
Washington, DC 20006
(attorney for Lacey and Larkin)

Thomas H. Bienert, Jr., Esq.
Bienert, Miller & Katzman,
PLC
903 Calle Amanecer, Suite 350
San Clemente, CA 92673
(attorney for James Larkin)

Michael D. Kimerer, Esq.
1313 E. Osborn Road,
Suite 100
Phoenix, AZ 85014
(attorney for Jed Brunst)

Bruce Feder, Esq.
2930 East Camelback Road,
Suite 160
Phoenix, AZ 85016
(attorney for Scott Spear)

David S. Eisenberg, Esq.
3550 N. Central Ave.,
Suite 1155
Phoenix, AZ 85012
(attorney for Andrew Padilla)

Joy Malby Bertrand, Esq.
1826 N. 7th Avenue
Phoenix, AZ, 85007
(attorney for Joye Vaught)

Gary Lincenberg, Esq.
Bird, Marella, Boxer, Wolpert,
Nessim, Drooks, Lincenberg & Rhow,
P.C.
1875 Century Park East
23rd Floor
Los Angeles, CA 90067
(attorney for Jed Brunst)

Re: U.S. v. Michael Lacey, et.al.
CR-18-00422-PHX-SMB

Dear Counsel:

Pursuant to your request for discovery and the government's obligations under Fed. R. Crim. P. 16 and the stipulated scheduling order in this case, please find enclosed a thumb drive containing the government's tenth disclosure.¹

¹ A thumb drive containing disclosure for defendants Michael Lacey, James Larkin, and Jed Brunst are being provided to Paul J. Cambria Jr., Thomas H. Bienert Jr., and Gary Lincenberg respectively.

Lacey, et. al. Discovery Letter
September 12, 2019
Page 2

The thumb drive contains the following Bates Stamped records:

- Additional Reports of Interviews and Supporting Documents – DOJ-BP-0004857290-DOJ-BP-0004857748
- Mutual Legal Assistance Treaty Records, Witness Testimony/Transcripts, and Backpage state/local case-related documents – DOJ-BP-0004857749-DOJ-BP-0004864349
- Daniel Hyer's Cooperation Agreement² – DOJ-BP-0004864350-DOJ-BP-0004864355
- Backpage Sales Agreement – DOJ-BP-0004864356-DOJ-BP-0004864885
- Additional Reports of Interviews and Supporting Documents – DOJ-BP-0004864886-DOJ-BP-0004879330
- Travelers Insurance and other Subpoena Compliance Documents – DOJ-BP-0004879331-DOJ-BP-0004884196
- Photographs of Backpage Servers housed in Tucson, Arizona³ – DOJ-BP-0004884197 – DOJ-BP-0004884338

Please reach out with any questions.

Sincerely,

BRIAN BENCZKOWSKI
Assistant Attorney General
Criminal Division
U.S. Department of Justice

Reginald E. Jones
REGINALD E. JONES
Senior Trial Attorney, CEOS
(202) 616-2807
reginald.jones4@usdoj.gov

MICHAEL BAILEY
U.S. Attorney

KEVIN M. RAPP
MARGARET PERLMETER
PETER S. KOZINETS
ANDREW STONE
JOHN J. KUCERA
Assistant United States Attorneys

² Daniel Hyer's cooperation agreement has previously been produced to counsel; however, we wanted to provide you a Bates Stamped copy of this document.

³ Photographs of servers housed in Tucson have previously been produced to counsel; however, we wanted to provide you Bates Stamped copies of these records.

Lacey, et. al. Discovery Letter
September 12, 2019
Page 3

Enclosures

Exhibit “B”



U.S. Department of Justice

United States Attorney
District of Arizona

Two Renaissance Square
40 N. Central Ave., Suite 1800
Phoenix, AZ 85004-4408

Main: (602) 514-7500
Main Fax: (602) 514-7693

September 23, 2019

Paul J. Cambria Jr.
Attorney at Law
Lipsitz Green Scime Cambria,
LLC
42 Delaware Ave, Suite 120
Buffalo, NY 14202
(attorney for Michael Lacey)

Jim Grant
Davis Wright Tremaine, LLP
920 Fifth Avenue,
Suite 3300
Seattle, WA 98104
(attorney for Lacey and Larkin)

Robert Corn-Revere
Davis Wright Tremaine, LLP
1919 Pennsylvania Avenue N.W.,
Suite 800
Washington, DC 20006
(attorney for Lacey and Larkin)

Thomas H. Bienert, Jr., Esq.
Bienert, Miller & Katzman,
PLC
903 Calle Amanecer, Suite 350
San Clemente, CA 92673
(attorney for James Larkin)

Michael D. Kimerer, Esq.
1313 E. Osborn Road,
Suite 100
Phoenix, AZ 85014
(attorney for Jed Brunst)

Bruce Feder, Esq.
2930 East Camelback Road,
Suite 160
Phoenix, AZ 85016
(attorney for Scott Spear)

David S. Eisenberg, Esq.
3550 N. Central Ave.,
Suite 1155
Phoenix, AZ 85012
(attorney for Andrew Padilla)

Joy Malby Bertrand, Esq.
1826 N. 7th Avenue
Phoenix, AZ, 85007
(attorney for Joye Vaught)

Gary Lincenberg, Esq.
Bird, Marella, Boxer, Wolpert,
Nessim, Drooks, Lincenberg & Rhow,
P.C.
1875 Century Park East
23rd Floor
Los Angeles, CA 90067
(attorney for Jed Brunst)

Re: U.S. v. Michael Lacey, et.al.
CR-18-00422-PHX-SMB

Dear Counsel:

Pursuant to your request for discovery and the government's obligations under Fed. R. Crim. P. 16 and the stipulated scheduling order in this case, please find enclosed three DVD's containing the government's eleventh disclosure.¹

¹ DVD's containing disclosure for defendants Michael Lacey, James Larkin, and Jed Brunst are being provided to Paul J. Cambria Jr., Thomas H. Bienert Jr., and Gary Lincenberg respectively.

Lacey, et. al. Discovery Letter
September 23, 2019
Page 2

DVD#1 contains the following Bates Stamped records:

- Financial Institution Documents – DOJ-BP-0004884339-DOJ-BP-0004884537
- Backpage-related News Articles, Seminary Documents – DOJ-BP-0004884538-DOJ-BP-0004884612
- Arizona GJ Court-related Documents – DOJ-BP-0004884613-DOJ-BP-0004884852
- Reports of Interviews and Supporting Documents, Backpage Agendas, and CA DOJ Investigation Documents – DOJ-BP-0004884853-DOJ-BP-0004894611
- Trial and Hearing Transcripts from State Court cases related to Backpage – DOJ-BP-0004894612-DOJ-BP-0004895017
- Reports of Interviews and Supporting Documents – DOJ-BP-0004895018-DOJ-BP-0004895052
- Additional Photographs of Backpage Servers – DOJ-BP-0004895053-DOJ-BP-0004895162
- Backpage Case Search Warrants – DOJ-BP-0004895163-DOJ-BP-0004895883
- Reports of Interviews and Supporting Documents – DOJ-BP-0004895884 – DOJ-BP-0004895903
- Backpage State Court Case-related Documents – DOJ-BP-0004895904 – DOJ-BP-0004897287

DVD#2 contains audio and video files related to state court investigations involving Victims 10 and 12 referenced in the superseding indictment.

DVD#3 contains investigative reports and accompanying audio and video attachments for several Backpage-related investigations conducted by CA DOJ. Although Bates copies of these investigative reports are included on DVD #1, the reports are also included on DVD#3 (without Bates) to better enable you to locate each report and the corresponding audio and video attachment without the need to reference a separate database.

Please reach out with any questions.

Sincerely,

BRIAN BENCZKOWSKI
Assistant Attorney General
Criminal Division
U.S. Department of Justice

Reginald E. Jones
REGINALD E. JONES
Senior Trial Attorney, CEOS
(202) 616-2807
reginald.jones4@usdoj.gov

MICHAEL BAILEY
U.S. Attorney

Lacey, et. al. Discovery Letter
September 23, 2019
Page 3

KEVIN M. RAPP
MARGARET PERLMETER
PETER S. KOZINETS
ANDREW STONE
JOHN J. KUCERA
Assistant United States Attorneys

Enclosures